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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 ROBERT HOLMES, *et al.*,

10 Plaintiffs,

11 v.

12 YCT. NOVA, *et al.*,

13 Defendants.

Case No. C16-1422RSL

ORDER GRANTING PLAINTIFFS'
MOTION IN LIMINE

14 This matter comes before the Court on "Plaintiffs' Motion in Limine." Dkt. # 79.
15 In September 2016, a state court jury determined that there was no joint venture
16 agreement or contract between Yadvish/Yachtfish Marine, Inc. ("YMI"). and
17 Holmes/Marquis International Holdings, LLC ("MIH") and that MIH is the rightful
18 owner of the vessel M SQUARED. Dkt. # 100-1. Plaintiffs seek to exclude evidence and
19 testimony offered to prove that there was a joint venture agreement or that Yadvish/YMI
20 had an ownership interest in the vessel.

21 The doctrine of collateral estoppel "promotes judicial economy and serves to
22 prevent inconvenience or harassment of parties. Also implicated are principles of repose
23 and concerns about the resources entailed in repetitive litigation." Christensen v. Grant
24 County Hosp. Dist. No. 1, 152 Wn.2d 299, 306-07 (2004). Defendant S.B. Joseph Clark
25 opposes plaintiff's motion to exclude evidence, arguing that the issues decided in the
26

1 earlier proceeding are not directly at issue in this litigation, that he was not in privity with
2 Yadvish/YMI, and that it would be unjust to apply collateral estoppel in the
3 circumstances presented here. See Reninger v. State Dep't of Corrs., 134 Wn.2d 437, 449
4 (1998) (stating the "well-known" elements of collateral estoppel). The Court disagrees.
5 Clark has asserted a maritime lien against the M SQUARED as the subrogee of YMI
6 and/or as the provider of funds to pay for necessities for the vessel. Yadvish/YMI's
7 interest in the M SQUARED is a critical issue of fact with regards to this claim if, as
8 appears to be the case, Clark intends to argue that he advanced money for the payment of
9 necessities at the request of the vessel master or one entrusted with her management. The
10 issues decided earlier -- that Yadvish/YMI is not the owner of the M SQUARED and that
11 Yadvish/YMI were not in a partnership with the owner -- are relevant to this analysis in
12 that they limit the ways in which Clark can support his claim of entitlement to a maritime
13 lien.¹

14 To the extent Clark claims that he has succeeded to the interests of Yadvish/YMI
15 as holder of a maritime lien, the privity element of collateral estoppel is also met. Strict
16 identity of the parties is not necessary if there is sufficient commonality of interest. In re
17 Pearsall-Stipek, 136 Wn.2d 255, 261-62 (1998).

18 Federal courts have deemed several relationships sufficiently close to
19 justify a finding of privity and, therefore, preclusion under the doctrine of
20 res judicata: First, a non-party who has succeeded to a party's interest in
21 property is bound by any prior judgment against the party. Second, a
non-party who controlled the original suit will be bound by the resulting

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23 ¹ Clark has also asserted claims that do not turn on whether Yadvish/YMI had an
24 ownership interest in the M SQUARED and argues that collateral estoppel is therefore
25 inapplicable. If the state court's ownership determination is not relevant to a particular claim,
26 there is no reason to suspect that the parties will attempt to relitigate the issue: a finding
regarding collateral estoppel will make no difference as to those claims. To the extent the parties
pursue a claim or defense that requires proof of ownership, however, that issue is identical to the
one decided in state court and estoppel may be appropriate.

1 judgment. Third, federal courts will bind a non-party whose interests were
2 represented adequately by a party in the original suit. In addition, privity
3 has been found where there is a substantial identity between the party and
4 nonparty, where the nonparty had a significant interest and participated in
5 the prior action, and where the interests of the nonparty and party are so
6 closely aligned as to be virtually representative. Finally, a relationship of
7 privity can be said to exist when there is an express or implied legal
8 relationship by which parties to the first suit are accountable to non-parties
9 who file a subsequent suit with identical issues.

10 Tahoe-Sierra Preservation Council, Inc. v. Tahoe Reg. Planning Agency, 322 F.3d 1064,
11 1082 (9th Cir. 2003) (internal quotation marks and citations omitted).² In this case, Clark
12 claims to have obtained its maritime lien by subrogation through or from Yadvish/YMI.
13 He is therefore the successor of an interest that was diligently pursued in the state
14 litigation: he cannot now relitigate an issue that his predecessor-in-interest litigated and
15 lost. In addition, Clark's interest in the prior litigation was significant (one of his claims
16 for recovery of the \$670,000 he put into the repair and refurbishment of the M
17 SQUARED depends in large part on Yadvish/YMI's rights in the vessel) and he
18 participated in the prior action on Yadvish/YMI's behalf. Privity "is a legal conclusion
19 designating a person so identified in interest with a party to former litigation that he
20 represents precisely the same right in respect to the subject matter involved." In re
21 Schimmels, 127 F.3d 875, 881 (9th Cir. 1997). The Court makes such a finding here.

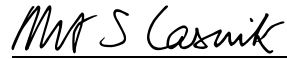
22 Finally, there are no procedural irregularities in the state litigation that would make
23 it unfair to bind Clark by the jury's determination in that case.

24 For all of the foregoing reasons, plaintiff's motion in limine is GRANTED. The
25 parties are collaterally estopped from attempting to prove that there was a joint venture or

26 ² Both res judicata (otherwise known as claim preclusion) and collateral estoppel
(otherwise known as issue preclusion) require privity between the parties. U.S. v. Bhatia, 545
F.3d 757, 759 (9th Cir. 2008).

1 partnership between Yadvish/YMI and Holmes/Marquis International Holdings related to
2 the vessel M SQUARED or that MIH is not the rightful owner of the vessel.

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4 Dated this 23rd day of April, 2018.

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6 Robert S. Lasnik
7 United States District Judge
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